

# **Family Educational Rights and Privacy Act (FERPA)**

## **Frequently Asked Questions**

### **What is FERPA?**

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student ("eligible student"). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

### **How am I informed about my rights under FERPA?**

Educational agencies and institutions are required to notify parents and eligible students about their rights under FERPA. Section 99.7 of the FERPA regulations sets forth the requirements for the notification and there is a model notification on this Web site. Schools do not have to individually notify parents and eligible students but do have to notify them by any means that are reasonably likely to inform the parents or eligible students of their rights.

### **Under what circumstances may a school disclose information from education records without consent?**

There are several exceptions to FERPA's general prior consent rule that are set forth in the statute and the regulations. See § 99.31 of the FERPA regulations. One exception is the disclosure of "directory information" if the school follows certain procedures set forth in FERPA. (34 CFR § 99.31(a)(11).)

### **What is "Directory Information"?**

FERPA defines "directory information" as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Typically, "directory information" includes information such as name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, and dates of attendance. A school may disclose "directory information" to third parties without consent if it has given public notice of the types of information which it has designated as "directory information," the parent's or eligible student's right to restrict the disclosure of such information, and the period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." The means of notification could include publication in various sources, including a newsletter, in a local newspaper, or in the student handbook. The school could also include the "directory information" notification as part of the general notification of rights under FERPA. The school does not have to notify a parent or eligible student individually. (34 CFR § 99.37.)

### **If I am a parent of a college student, do I have the right to see my child's education records, especially if I pay the bill?**

As noted above, the rights under FERPA transfer from the parents to the student, once the student turns 18 years old or enters a postsecondary institution at any age. However, although the rights under FERPA have now transferred to the student, a school may disclose information from an "eligible student's" education records to the parents of the student, without the student's consent, if the student is a dependent for tax purposes. Neither the age of the student nor the parent's status as a custodial parent is relevant. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision. (34 CFR § 99.31(a)(8).)

### **Can a postsecondary institution disclose financial records of an eligible student with the student's parents?**

If the student is a dependent for income tax purposes, the institution may disclose any education records, including financial records to a student's parents. If the student is not a dependent, then the student must generally provide consent for the school to disclose the information to the parents.

### **What if my child is a minor and he or she is taking classes at a local college while still in high school - do I have rights?**

If a student is attending a postsecondary institution - at any age - the rights under FERPA have transferred to the student. However, in a situation where a student is enrolled in both a high school and a postsecondary institution, the two schools may exchange information on that student. If the student is under 18, the parents still retain the rights under FERPA at the high school and may inspect and review any records sent by the postsecondary institution to the high school.

### **May a postsecondary institution disclose to a parent, without the student's consent, information regarding a student's violation of the use or possession of alcohol or a controlled substance?**

Yes, if the student is under the age of 21 at the time of the disclosure. FERPA was amended in 1998 to allow such disclosures. See § 99.31(a) 15 of the FERPA regulations. Also, if the student is a "dependent student" as defined in FERPA, the institution may disclosure such information, regardless of the age of the student.